IN THE HIGH COURT OF JUDICATURE AT PATNA
CR. REV. No.1328 of 2008
CHULHAN PANDIT
Versus
STATE OF BIHAR
---

3. 15.12.2008. This revision has been preferred against the judgment and order dated 2nd September,2008 passed by F.T.C. IV, Gaya in Cr. Appeal No.2 of 2007/319 of 2006 thereby judgment of conviction and sentence dated 10.11.2006 passed by Ram Rang Tiwary, Judicial Magistrate, Ist Class, Gaya in G.R. Case No.1931 of 2005, Trial No.1392 of 2006 has been confirmed.

It appears that the learned Magistrate vide aforesaid judgment has convicted this appellant under sections 25(I-B)a, 26 of the Arms Act and sentenced him to undergo R.I. for three years and to pay fine of Rs.3,000/- under section 25(I-B)a of the Arms Act and R.I. for one year and to pay fine of Rs.1,000/- under section 26(1) of the Arms Act. Both the sentences have been directed to run concurrently.

Heard the learned counsel for the petitioner.

Perused the L.C.R. the learned counsel for the petitioner presses this application only on the point of sentence.

It is submitted that the petitioner has no criminal antecedent. He has already remained in jail custody for about nine months. Only one fire arm without any cartridge was said to be recovered from possession of this petitioner. It is further submitted that the witnesses examined on behalf of the prosecution are police witness. Not a single independent witness has been examined in this case. It is further submitted that the I.O. of the case was also a member of the raiding

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party.

Considered the submission of the learned counsel for the petitioner. Perused both the judgments as well as the L.C.R. The minimum sentence prescribed is one year. However, in the facts and circumstances, it appears to be a fit case in which the benefit of proviso of section 25 of the Arms Act shall be extended to this petitioner under which the court, for special reason, may impose a sentence of imprisonment of less than one year.

Accordingly, while upholding the conviction of the petitioner recorded under sections 25(I-B)a and 26 of the Arms Act, the sentence awarded to him is hereby modified to the extent of a period already undergone by the petitioner, which is sufficient to meet the ends of justice.

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Accordingly, this revision is dismissed with above direction in the sentence. The petitioner is directed to be released at once if not wanted in any other case.

Let this order be communicated to the court below through fax on cost being deposited by the petitioner.

(Ghanshyam Prasad)

N.H./